IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7250 OF 2004

Shri Mohammed Hussein Ibrahim, .. Petitioner

Vs

1. Shri Nadeem Ibrahim Karari

and ors. .. Respondents

Mr B.G.Vaidya, for the petitioner.

Mr R.R.Salvi, for respondent no.1.

CORAM : D.B.BHOSALE,J.

DATE : 7th September, 2004

PC:

1. Heard the learned counsel for the parties.

2. Mr.Vaidya, learned counsel for the petitioner, on instructions, states that the petitioner has already created third party rights in major portion of the suit properties and the purchasers are carrying out the construction over the portion alienated to them. Mr. Salvi, learned counsel for the respondents, on instructions, states that the respondents have no objection for the third parties, to whom the suit properties have already been alienated, to carry out construction over the said portion. He, however, submits that the order of injunction granted by the learned Addl District Judge by order dated 27.7.2004, be

confirmed against the remaining portion of the suit properties which is still in possession of the petitioner. Mr Vaidya, states that the petitioner shall not alienate the remaining portion in his possession till the disposal of the suit. Statements made by the learned counsel for the parties are accepted. In view of this, the impugned order dated 27.7.2004 stands confirmed subject to following modification.

(i) The petitioner is restrained from alienating the portion of the suit property in his possession and which has remained to be alienated so far till disposal of the suit. The petitioner-defendant no.1,if carries out any construction on the portion of the suit property in his possession, it would be subject to outcome of R.C.S.No.136/2003.

3. With these observations, this writ petition stands disposed of.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)